

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Newport News Division**

**SHELAGH PAYNE**

**Plaintiff,**

**v.**

**Civil Action No. 4:12cv87**

**LAW OFFICES OF SHAPIRO, BROWN & ALT, LLP  
F/K/A LAW OFFICES OF SHAPIRO & BURSON, LLP,**

**and**

**PROFESSIONAL FORECLOSURE COPORATION  
OF VIRGINIA**

**Defendants.**

**JOINT STATUS REPORT**

This matter is companion to six consolidated cases, with the lead case styled *Moore v. Shapiro Brown & Alt*, 4:11cv122. This case, together with the consolidated cases, has been stayed pending mediation. The Court has ordered a periodic status report, the last status report was filed on March 3, 2013. The parties submit the following status report:

1. The parties held an in-person mediation session with Judge Dohnal on October 4, 2012.
2. On November 2, 2012, the parties were granted a 90 day stay of the proceedings to pursue mediation efforts.
3. On January 28, 2013, the parties filed a joint status report and informed the Court of their respective positions concerning the stay and mediation status, as well as the filing of a class action lawsuit was filed by counsel for Plaintiffs against Defendants in the Richmond Division (*Boyd et al. v. Law Offices of Shapiro, Brown & Alt, LLP, et al.*, Civil Action No: 3:12-cv-700-REP (hereinafter "*Boyd*")). The Defendant moved to transfer venue in *Boyd* from the

Richmond Division to the Norfolk Division and to consolidate it with *Moore*, which motion the Plaintiff opposed. (Doc. No. 23.)

4. Following the filing of the most recent status report, the parties have been communicating in writing and by phone.

**Plaintiff's Position**

5. Plaintiff's position: Despite the fact that counsel have been communicating with each other, the Plaintiffs maintain their position that Defendants have not participated in any meaningful mediation, but instead continue to delay any discussion of resolution by compromise. Judge Dennis W. Dohnal, who had been facilitating mediation in this matter, has informed the parties that he views the case to be at an impasse.

The efforts at meaningful engagement continue to be one-sided, as the Plaintiffs have made reasonable offers and waited a reasonable amount of time, having made themselves available for the give and take of negotiation. Despite achieving results by compromise in other cases against Shapiro and PFC outside this litigation, the Plaintiffs in *Moore* and *Payne* have no confidence that this case will be settled. To date, the Defendants have refused to make any offer – meaningful or otherwise. Plaintiff and her counsel remained ready and willing to mediate and have expressed such position to Judge Dohnal. However, Plaintiff feels strongly that even in the unlikely event that the *Boyd* case is transferred and consolidated with *Moore*, this case should not be stayed any longer.

The 90-day stay has expired, and despite many phone calls and emails, the Plaintiffs feel that this case will not progress unless the stay is lifted and litigation recommenced.

**Defendants' Position**

6. Defendants continue to believe the stay should remain in place. Defendants remain engaged with and committed to the mediation process with Judge Dohnal. Defendants are awaiting individual settlement demands on the specific cases that have been filed and are stayed pending mediation. Defendants have submitted revised offers in several cases, which have been accepted, and have reached a global settlement with all defendants in another case. The only issue remaining for determination in those cases is the amount of attorneys' fees to be recovered.

7. The *Boyd* class action lawsuit was filed against Defendants in the Richmond Division the afternoon before the mediation session with Judge Dohnal in October 2012, which is a prime example of forum shopping. Defendants filed a motion to transfer venue and consolidate for pretrial and settlement purposes in *Boyd* on December 24, 2012. Plaintiffs have filed their response to this motion and Defendants have filed their reply. Accordingly, the Motion is ripe for decision and Defendants anticipate a hearing before and/or a ruling from the Richmond Division in the near future. Defendants contend venue in the *Boyd* case should be transferred and it should be consolidated into *Moore* in the interests of justice, judicial economy, avoiding unnecessary inconvenience and cost, as well as to avoid prejudice and the likelihood of inconsistent rulings. After venue is transferred, Defendants submit their forthcoming motion to dismiss should be ruled upon in order to narrow the claims in *Boyd*, a decision which Defendants believe will further facilitate mediation and settlement. Defendants respectfully request that the



**Plaintiffs:**

**By:** /s/  
Of Counsel

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 3rd day of May, 2013, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF System, which will then send a notification of such filing (NEF) to the following:

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